



23 JAN 1962

MEMORANDUM FOR: Deputy Director (Intelligence)
Deputy Director (Plans)
Deputy Director (Support)
Inspector General

SUBJECT: Advisory Committees

1. By memorandum of 14 February 1959 you were informed of certain criteria which the Cabinet had determined should be applied to the use of Advisory Committees. By this term is meant any committee, board, commission, council, panel, task force, or similar group, used by any department or agency for advice or recommendation, that is not composed wholly of Government employees.

2. Reports on Advisory Committees were submitted by each of your components, and after review it was determined that the Agency's use of Advisory Committees met the criteria except in certain cases where certain criteria were authorized to be waived in the public interest. The Agency Advisory Committees were also reviewed for any indications of conflict of interest, and it was determined that none existed. The reports from your components were recorded with the Executive Officer, Office of the Director, and instructions were issued that any new committees proposed for use by this Agency be similarly recorded.

3. Recently a new policy in regard to the use of scientific advisors was adopted by the Atomic Energy Commission based on an opinion regarding conflicts of interest issued by the Department of Justice. Inasmuch as this opinion is general in nature, it must be determined what application it may have to this Agency. It is also extremely strict in limiting the use of scientific advisors by the Government who are employees of private enterprises

engaged in research financed by the agency to which they are consultants. Accordingly, a team composed of a representative of the Inspector General's office and a representative of the General Counsel's office will visit components under your jurisdiction to assure that reports on Advisory Committees are up to date and to review the composition of such Advisory Committees in the light of the current conflict-of-interest rules. In the event cases arise which appear to be within the letter of the Department of Justice's opinion but which as a matter of practice do not seem to raise the possibility of real conflict, they will be discussed with the Department of Justice to see if we can avoid needless loss of valuable advice to the Agency.

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C. P. CABELL
General, USAF
Deputy Director

OGC:LRH:jeb
cc: DDCI
EO/DCI
ER
General Counsel

7/24/54 1-13-54, PS

20 JAN 62

Scientists' Dilemma . . .

By Howard Simons

CPYRGHT

What Is Conflict of Interest?

NINETEENTH CENTURY laws are catching up with Twentieth Century scientists. The result is a complex, difficult and potentially painful situation for both the Nation and its scientists.

The laws are basic conflict-of-interest statutes enacted almost a century ago as a result of Civil War scandals in military procurement.



Simons

The scientists are those experts who serve the Federal Government as part-time advisers and consultants.

Until recently, most American scientists were unaware that conflict-of-interest problems were their problems. Today, however, these scientists are awakening to the fact that their advisory efforts on behalf of the Government could lead, or may have already led them into the somewhat murky and labyrinthine world of conflict-of-interest accusations.

THE AWAKENING is partly the result of a 1960 study of conflict of interest and Federal service by the Association of the Bar of the City of New York, and partly as a result of the publicity attendant to a continuing study of the problem by the House Armed Services Committee.

The heart of the problem, as it affects scientists who serve the Government on a part-time basis, was set forth in the Bar Association study:

"His skills are in short supply, and his services are in great demand by Government and others, in part as

a consequence of the Cold War. He increasingly has a stake in corporate retirement and stock plans, and substantial personal economic commitments. He works in a field most dramatically illustrating the unique mixed private-public economy of contemporary America, and often cannot be classified either as a Government 'employee' or a 'nonemployee'.

"He demonstrates in a modern and complex form the exposure of Government employees to potential and real conflicts of interest."

In short, the Government—which supports the largest share of the Nation's scientific research and development—can hardly do without expert scientific advice. At the same time, few scientific experts are without some attachment to universities or industry who are recipients of Government contracts and grants.

A STRICT interpretation of the conflict-of-interest laws now on the books could make it difficult for most scientists to work as part-time advisers for Government agencies. One statute, for example, prohibits a part-time consultant as an "employee" of the Government from receiving compensation "for services to any person or institution with respect to any 'contract' or 'matter' in which the United States is 'a party or directly or indirectly interested.'"

If narrowly interpreted, this could mean that as soon as someone begins to advise the Government he would automatically be prohibited from working for his employer on any Government contract.

For a long time Government officials, cognizant of the weaknesses in the conflict-of-interest laws, have

generally elected not to enforce the laws in their narrowest sense. In recent years, however, there have been hints that some persons have been violating the law.

The House Armed Services Committee has apparently uncovered some evidence that some scientific consultants may have used advance knowledge of contracts to profit in stock speculation. The Committee is also trying to learn if any consultants have channeled or directed contracts to universities or industries in which they have interests.

Any determination of wrongdoing awaits the Committee's findings perhaps in public hearings.

Government officials have not been blind to the potential of the situation. On the one hand it invites scandal and could seriously tarnish the public image of the scientific community. On the other, it invites a wholesale loss of expert advice at a time when the Nation can least afford such a loss.

Presently, therefore, there are bills before the Congress, based upon the Bar Association's findings, that could do much to alleviate the situation. One is an Administration bill.

Although few persons think that a general remedy can be found, most agree that changes in the laws and revised regulations are needed.

The ambiguity of the present statutes and the absence of authoritative interpretation, said Kenneth W. Dam of the University of Chicago Law School, "is especially troublesome because the scientists cannot safely rely on a clear conscience. The statutes may be violated without any intent to favor the private over the public interest."

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